

MISC. CIVIL APPLICATION NO. 1305 OF 1990.

Date of decision: 18.12.1995.

For approval and signature

The Honourable Mr. Justice S. M. Soni

and

The Honourable Mr. Justice R. R. Jain

Mr.M.D. Rana, advocate for petitioner.

Mr. D.R. Bhatt, advocate for respondent.

1. Whether Reporters of Local Papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Coram: S.M. Soni & R.R. Jain, JJ.

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December 18, 1995.

Oral judgment (Per Soni, J.)

Learned advocates for the parties are absent.

Petitioner has filed this application for taking action against respondent under the Contempt of Courts Act, alleging noncompliance of the award passed by the Primary Education Tribunal on 10.9.1990 in Application No.274 of 1989. By the said award, the Tribunal has directed the respondent to pay to the petitioner the difference of

salary within three months by account payee cheque and to go on paying the regular salary before 10th of every month.

This court, in Misc. Civil Application No.1949 of 1994 has taken a view that execution of the said award of the Tribunal is available to the petitioner inasmuch as in view of clause (14) of the Primary Education Tribunal Procedure Order, 1987, Civil Procedure Code is applicable. In view of this fact, there is an alternative remedy by way of execution and contempt proceeding is not a substitute for execution as held by the Supreme Court in the case of the Alahar Co-operative Credit Service Society v. Sham Lal, reported in 1995 (2) GLH, 550.

In view of this fact, when the petitioner has alternative remedy available, this Court would not like to exercise its jurisdiction under the Contempt of Courts Act. Hence, this petition deserves to be dropped and is hereby dismissed. Rule discharged. No costs.